

SLIP OPINION

**NSAS COURT OF APPEALS**

DIVISION I  
No. CR-13-442

CALVIN CARRICK	APPELLANT	<b>Opinion Delivered</b> October 23, 2013
V.		APPEAL FROM THE PULASKI COUNTY CIRCUIT COURT, SEVENTH DIVISION [NO. CR-2010-4491]
STATE OF ARKANSAS	APPELLEE	HONORABLE BARRY SIMS, JUDGE
		AFFIRMED

**BRANDON J. HARRISON, Judge**

Calvin Carrick appeals *pro se* from a Pulaski County Circuit Court order denying his motion to return a \$165 fee that he paid when he appealed an adverse district-court judgment to circuit court. Because the law prohibits Carrick from getting the refund he seeks, we affirm.

The City of Little Rock issued three citations to Carrick in November 2010. In late December 2010 the District Court of Little Rock, Environmental Division, found that Carrick had committed the following two violations: high grass and the failure to maintain a garage or other accessory structure. But the district court issued no punishment for the two offenses. Carrick appealed these two violations to circuit court and paid the required \$165 fee.

The case was set for a jury trial in circuit court, and the court's docket sheet shows that a mistrial was declared. The case was rescheduled for another jury trial in circuit

court, but the State dismissed the charges before the second trial commenced. Carrick then moved to recoup the \$165 fee he paid to file his circuit-court case. He argued to the circuit court that the fee was the “functional equivalent of a poll tax” that hindered his right to participate “in the free exercise of a constitutional right.” He also said that the fee violated Arkansas Constitution article 2, section 13, which states that citizens are allowed “to obtain justice freely, and without purchase.” The State responded that it dismissed the charges, so Carrick did not technically prevail. It further argued that a filing fee was not a poll tax and that the Arkansas Supreme Court held, in *Cook v. Municipal Court of Pine Bluff*, 287 Ark. 382, 699 S.W.2d 741 (1985), that the fee did not violate the Arkansas Constitution.

The circuit court denied Carrick’s attempt to recoup the fee. Carrick appealed again and here renews his prior arguments that essentially ask us to overrule *Cook, supra*. The State opposes this appeal.

The \$165 fee Carrick complains about is a combination of two separate fees. The uniform filing fee for starting a case in circuit court is \$150. Ark. Code Ann. § 21-6-403(b)(1) (Repl. 2009). The remaining \$15 is a technology fee that the clerks of the supreme court, circuit courts, and district courts charge for administrative costs. Ark. Code Ann. § 21-6-416(a)(1) (Repl. 2009). We first address why Carrick cannot recover the \$150 filing fee. Our supreme court has held that it is not unconstitutional to require a party to pay a filing fee. See *Neeley v. Barber*, 288 Ark. 384, 386, 706 S.W.2d 358, 359 (1986); *Cook v. Mun. Ct. of Pine Bluff*, 287 Ark. 382, 699 S.W.2d 741 (1985). See also *Langley v. State*, 343 Ark. 324, 325, 34 S.W.3d 364, 365 (2001). And Arkansas Code

Annotated section 21-6-403(a)(2) states that “[n]o portion of the filing fees shall be refunded.”

What about the \$15 technology fee? It cannot be recovered either. Arkansas Code Annotated section 21-6-416(a)(2) states that “no portion of the court technology fee shall be refunded.”

The circuit court’s denial of Carrick’s motion to refund the filing and technology fees is affirmed.

Affirmed.

GRUBER and WHITEAKER, JJ., agree.

*Calvin Carrick*, pro se appellant.

*Dustin McDaniel*, Att’y Gen., by: *Eileen W. Harrison*, Ass’t Att’y Gen., for appellee.